

An
Bord
Pleanála

Board Direction
BD-009983-22
ABP-309488-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 28/01/2022.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to:

- (i) the *Climate Action Plan, 2021* and the provisions of the *Climate Action and Low Carbon Development (Amendment) Act, 2021*,
- (ii) the relevant provisions of *Project Ireland 2040, the National Planning Framework*,
- (iii) the policies set out in the *Regional Spatial and Economic Strategy for the Eastern and Midlands Region, 2019-2031*
- (iv) the relevant policies of the planning authority as set out in the *Offaly County Development Plan 2021-2027*
- (v) the requirement for the Anaerobic Digester Plant to be subject to and regulated under an industrial emissions licence to be issued by the Environmental Protection Agency,
- (vi) the pattern of existing and permitted development in the vicinity of the site and the potential future development of surrounding lands,

- (vii) the location of the proposed development on lands on the outskirts of Tullamore and in close proximity to the source of agricultural feedstock material and locations which are suitable for the spreading of digestate,
- (viii) the proximity of the site to the gas networks Ireland gas network for the export of gas,
- (ix) the design, nature and extent of the proposed Anaerobic Digester structures which are appropriate to their location in an area primarily characterised by industrial / commercial uses.
- (x) The nature of the landscape and the absence of any specific conservation or amenity designation for the site,
- (xi) Mitigation measures proposed for the control of emissions to the environment including relating to emissions to air and the minimisation of odours and noise,
- (xii) The documentation submitted with the application and appeal, including the Environmental Impact Assessment Report and Appropriate Assessment Screening Report and the submissions made in the course of the planning application and appeal.

It is considered that, subject to compliance with the conditions set out below, the proposed development:-

- would comprise an acceptable form of energy recovery from primarily agricultural waste,
- would be in accordance with European Union, National and Regional waste and sustainable energy policies and the provisions of the County Development Plan,
- would not seriously injure the amenities of the area or property in the vicinity,
- would be acceptable in terms of pedestrian and traffic safety and convenience,
- would not be prejudicial to public health,
- would not give rise to a risk of serious pollution, and

- would not give rise to a major accident risk.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Environmental Impact Assessment

The Board completed, in compliance with s.172 of the Planning and Development Act 2000 as amended, an Environmental Impact Assessment of the proposed development, taking into account:

- (a) The nature, scale and extent of the proposed development;
- (b) The Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) The submissions from the applicant, planning authority and the observers, and the in the course of the application; and
- (d) The Planning Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant including at appeal stage, and submissions made in the course of the planning application.

The Board considered and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows

- The development has the potential to generate odours that would impact negatively on amenity and human health and these will be mitigated by on site control of storage areas, procedures to minimise odour release including from vehicles and the installation of odour abatement equipment to the feedstock reception hall building.
- The development has the potential to negatively impact on air quality due to the operation of the on site anaerobic digester and these potential impacts will be mitigated by good maintenance and operation of the facility including minimisation of use of the on site flare.
- The development has the potential to impact negatively on ground and surface waters during construction phase of the development and this will be mitigated by good construction practice in the management of the storage and handling of equipment and materials,
- The development also has the potential to have negative impacts on water during the operational phase due to the potential for spillages on site or accidents or other incidents and these impacts will be mitigated by on site processes, bunding of the main operational areas and the design of the surface water drainage system,
- Potential indirect impacts on water arising from the sourcing of feedstock and the disposal of digestate will be avoided by the fact that no additional input material will be produced solely to feed the proposed anaerobic digester and that the end digestate will be less potentially harmful to the water environment than the spreading of slurry. The fact that the activity will be licensed and that nutrient management plans will be prepared for the disposal of digestate will also mitigate indirect impacts on water.
- The proposed development will have a significant net positive impact on the environment under the heading of climate due to the replacement of non renewable gas with the renewable bio gas that will be produced on site.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the environmental impact assessment report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Appropriate Assessment Screening

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of potential significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' Conservation Objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on European Sites, Charleville Wood Special Area of Conservation (Site Code: 000571) Clara Bog Special Area of Conservation (Site Code: 000572), or any other European site, in view of the sites' conservation objectives and that a Stage 2 Appropriate Assessment is not, therefore, required.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by the Planning Authority on the 24th day of November, 2020, and by the further particulars received by An Bord Pleanála on the 19th February 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All environmental mitigation measures set out in the Environmental Impact Assessment Report and associated documentation submitted by the developer with the application, by way of further information and the appeal shall be implemented in full except as may otherwise be required in order to comply with the conditions of this order.

Reason: In the interest of clarity and to protect the environment during the construction and operational phases of the development.

3. The following limits and requirements shall be complied with in the anaerobic digestion process:

- (a) A maximum of 50,000 tonnes per annum of raw materials shall be treated in the anaerobic digesters
- (b) The composition of feedstock used as input into the anaerobic digesters shall be as detailed in Table 3-1 of Volume 2 of the EIAR.

Reason: In the interests of clarity

4. An annual report on the operation of the facility hereby permitted shall be submitted to the Planning Authority. The content of this report shall be as agreed in writing with the Planning Authority and shall include inter alia the following:
- (a) Details of the source of all feedstock and final disposal areas of digestate,
 - (b) The volumes of raw materials treated in the anaerobic digester in the previous 12 months,
 - (c) The volume of digestate produced and stored in previous 12 months,
 - (d) The volume and weight of gas produced on site in previous 12 months.

Reason: In the interest of orderly development and to ensure compliance with the parameters set out in the application.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

6. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreements with Irish Water.

Reason: In the interest of public health.

7. Prior to the commencement of development, the developer shall submit details for the written agreement of the Planning Authority that clearly demonstrate that the maximum quantity of biogas present on the site at one time could never exceed the maximum amount that can be stored on site in order for the permitted facility to remain below the lower tier threshold under the Seveso Directive once account is taken of the Liquefied petroleum gas proposed to be stored on site.

Reason: In the interests of clarity and to ensure that the facility will not comprise an establishment for the purposes of the Seveso III Regulations.

8. Lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. The scheme shall minimise obtrusive light outside the boundaries of the development at all times.

Reason: In the interest of amenity and public safety.

9. The developer shall facilitate the planning authority in preserving, recording, or otherwise protecting archaeological materials or features that may exist within the site. In this regard, the developer shall
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide satisfactory arrangements for the recording and removal of any archaeological material which may be considered appropriate to remove.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation of any remains which may exist within the site.

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including and not limited to:
- (a) hours of construction,
 - (b) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,

- (c) location of areas for construction site offices and staff facilities,
- (d) details of site security fencing and hoardings,
- (e) details of car parking facilities for site workers during the course of construction,
- (f) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site if required,
- (g) measures to obviate queuing of construction traffic on the adjoining road network,
- (h) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (i) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works,
- (j) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (k) containment of all construction related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater,
- (l) details of construction lighting, and
- (m) details of key construction management personnel to be employed in the development.

The plan shall include measures for monitoring dust, noise, groundwater, and surface water and shall include a proposal for periodic reporting to the planning authority.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan and monitoring results as appropriate shall be kept for inspection by the planning authority.

A Construction Manager shall be appointed to liaise directly with the Council for the duration of the construction of the scheme.

Reason: In the interest of amenities, environmental protection, public health, and safety.

11. All solid wastes arising on the site shall be recycled as far as possible. Materials exported from the site for recovery, recycling or disposal shall be managed at an approved facility and in such a manner as is agreed with the Planning Authority. In any case no such wastes shall be stored on the site except within the confines of the buildings on site. Adequate on-site arrangements for the storage of recyclable materials prior to collection shall be made to the satisfaction of the Planning Authority.

Reason: To safeguard the amenities of the area.

12. The site shall be landscaped and planted in accordance with a scheme to comprise predominantly native and naturalised hedgerow, shrub and tree species reflecting those species naturally occurring in the locality. This plan shall be prepared with input from an ecologist. Full details including drawings and a timescale for implementation shall be submitted in a landscape plan to be agreed in writing with the Planning Authority prior to commencement of development. All planting shall be adequately protected from damage until established. Any plants which die, are removed, or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

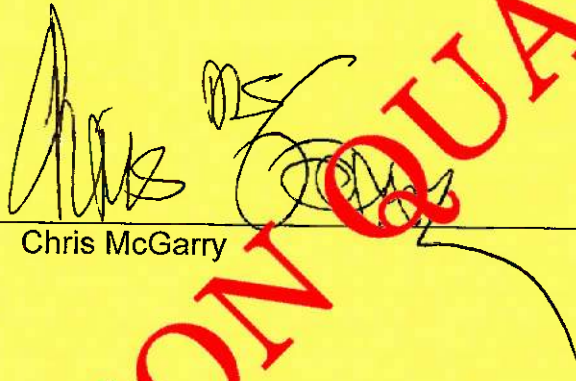
Reason: In the interests of visual amenity and protecting the biodiversity value of the site.

13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development

Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Board Member



Chris McGarry

Date: 10/02/2022

DECISION QUASHED